

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF ILLINOIS**

**MARTIN J. WALSH**, Secretary of  
Labor, United States Department of Labor,  
  
Plaintiff,

Civil action no.: 21-cv-00056-SMY

V.

**DAYEMI ORGANIZATION, INC. d/b/a  
 LONGBRANCH CAFE AND BAKERY, an  
 Illinois corporation, and ELAINE RAMSEYER  
 GREENBERG, an individual,**

Defendants.

## DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFF'S MOTION FOR ENTRY OF AMENDED JUDGMENT

NOW COME Defendants Dayemi Organization, Inc. d/b/a Longbranch Café and Bakery and Elaine Ramseyer Greenberg, by and through their attorney Shari R. Rhode of the Rhode Law Firm and for their Response in Opposition to Plaintiff's Motion for Entry of Amended Judgment state as follows:

Plaintiff filed a Motion to Amend in accordance with Rule 59(e) (Doc. 77) on July 18, 2022. The Court has yet to rule on Plaintiff's Motion. Plaintiff once again seeks the same monetary judgment neither the jury nor the Court has granted. It is axiomatic that no amended judgment should be entered unless and only if the Court grants Plaintiff's original Motion to Amend. (Doc. 77). For this reason alone, Plaintiff's Motion to Enter an Amended Judgment should be denied.

Additionally, although Plaintiff claims his Motion to Enter an Amended Judgment was filed under Fed. R. Civ. P. 58, it may be properly reviewed as simply another motion to alter or amend judgment such as the Plaintiff filed with the Court under Fed. R. Civ. P. 59(e) on July 18,

2022. (Doc. 77). Plaintiff is essentially asking the Court for the same relief; the proposed amended Judgment Plaintiff seeks in both motions. (Doc. 77 Page ID #627 and Doc. 83 Page ID #1086). Until the Court rules on the post-trial motion which is pending, there is no judgment which might be amended.

If the Plaintiff is anxious for a judgment to be entered without the Court ruling on the Plaintiff's first and only timely post-trial motion, then the Jury's Verdict should stand and be entered as final judgment in this case.

Respectfully Submitted,  
Dayemi Organization, Inc d/b/a/  
Longbranch Café and Bakery and Elaine  
Ramseyer Greenberg, Defendants

By: /s/Shari R. Rhode  
Shari R. Rhode, Attorney for Defendants  
Bar No. 2324598  
Rhode Law Firm  
1405 West Main Street  
Carbondale, IL 62901  
Telephone: 618.549.4287  
Facsimile: 618.549.4343  
Email: [efile@rhodelawfirm.com](mailto:efile@rhodelawfirm.com)

### **CERTIFICATE OF SERVICE**

The undersigned hereby certified that on December 22, 2022, a copy of Defendant's Response in Opposition to Plaintiff's Motion for Entry of Amended Judgment was electronically filed with the United States District Court, Southern District of Illinois, via the Court's CM/ECF filing system which will send notification of such filing to the following:

Elisabeth Simcox Nolte  
Kevin Wilemon  
Region V | Office of the Solicitor | U.S. Department of Labor  
230 S. Dearborn St., Rm. 844  
Chicago, IL 60604  
Email: [nolte.elisabeth.p@dol.gov](mailto:nolte.elisabeth.p@dol.gov)  
[Wilemon.Kevin@dol.gov](mailto:Wilemon.Kevin@dol.gov)

/s/Shari R. Rhode  
Shari R. Rhode